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IN THE
COURT OF APPEALS OF INDIANA

STEPHEN GASKEY, JR.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 45A03-0610-CR-475
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Salvador Vasquez, Judge
Cause No. 45G01-0602-FD-25

June 4, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Stephen Gaskey, Jr. ("Gaskey") appeals his sentence for two counts of Theft, Class D felonies.[1] We affirm.

Issue

Gaskey presents a single issue for review: Whether his sentence is inappropriate.

Facts and Procedural History

On February 21, 2006, Gaskey was charged with the theft of a jewelry box, jewelry and money belonging to Janet Greger and Cheryl Zoran, and with the theft of DVDs, jewelry, a jewelry box, and commemorative coins belonging to Nancy Ball. On August 9, 2006, at the conclusion of a jury trial, he was convicted as charged. On September 8, 2006, Gaskey was sentenced to two years imprisonment for each count, to be served concurrently. He now appeals.

Discussion and Decision

Gaskey challenges his two-year aggregate sentence as inappropriate pursuant to Indiana Appellate Rule 7(B), which provides that we "may revise a sentence authorized by statute if, after due consideration of the trial court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." The trial court found Gaskey's criminal history (and circumstances derivative thereof) to be aggravating.[2] Gaskey now claims that his criminal history was accorded too much

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[1] Ind. Code § 35-43-4-2.

[2] Although various panels of this Court have disagreed as to whether or not the trial court must make a sentencing statement, it has been universally recognized that such statements are very helpful to this court in

sentencing weight and that the one and one-half year advisory sentence for a Class D felony is the appropriate sentence. See Ind. Code § 35-50-2-7.

In Morgan v. State, 829 N.E.2d 12, 15 (Ind. 2005), the Indiana Supreme Court confronted the issue of whether a defendant's criminal record, standing alone, is a sufficient aggravator to support any enhancement above the presumptive term. In addressing this issue, the Court recognized that "the question of whether the sentence should be enhanced and to what extent turns on the weight of an individual's criminal history." Id. Such "weight is measured by the number of prior convictions and their seriousness, by their proximity or distance from the present offense, and by any similarity or dissimilarity to the present offense that might reflect on a defendant's culpability." Id. While acknowledging that, in many instances, "a single aggravator is sufficient to support an enhanced sentence," the Morgan Court cautioned sentencing and appellate judges to think about the appropriate weight to give a history of prior convictions. Id. The Morgan court noted that the defendant's prior Class B conviction for delivering a controlled substance was certainly worthy of some weight because of its similarity and proximity to the offense at issue, i.e., possession of methamphetamine as a Class A felony. Id. at 16. However, in light of the five mitigating factors found by the trial court, the Morgan Court determined that the defendant's criminal record, standing on its own, would not support the imposition of the enhanced sentence. Id. Ultimately, after determining that two of the four aggravators used to enhance the defendant's sentence were improper and concluding that the aggravating and mitigating

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determining the appropriateness of a sentence under Indiana Appellate Rule 7(B). See Gibson v. State, 856

circumstances were in equipoise, the Court directed the trial court to revise the sentence at issue to the presumptive term. Id. at 18.

Gaskey presented no evidence of mitigating circumstances.[3] With respect to his criminal history, he had three juvenile adjudications and he was convicted of six counts of burglary between 1985 and 1996. Simultaneously with his conviction in the instant case, under a separate cause number, he was convicted of an additional count of burglary, as well as theft and resisting law enforcement. Numerous prior efforts to rehabilitate Gaskey had not deterred him from taking the property of others. The history of multiple offenses involving burglary and theft is worthy of sentencing weight. Gaskey has not persuaded us that the six-month enhancement of the advisory sentence for a Class D felony is inappropriate.

Affirmed.

SHARPNACK, J., and MAY, J., concur.

N.E.2d 142, 146-47 (Ind. Ct. App. 2006).

[3] He presents a cursory argument on appeal that his admission of certain facts is mitigating because he "essentially put the State to no more effort than if he had pled guilty." Appellant's Brief at 7. He does not cite to any authority equating an admission of facts with a guilty plea, nor did he ask the trial court to find his admission to be a mitigating circumstance.